

U.S.S.N. 10/711,525

8

04877 (LC 0169 PUS)

REMARKS

In the Non-Final Office Action of June 22, 2005, claims 1-3 and 6-24 are pending. Claims 4-5 were previously canceled. In response to the Office Action dated June 22, 2005, claims 1-2, 10, 15, 19 are currently amended and claims 16 and 24 are cancelled.

Drawings

The drawings filed on April 11, 2005 are objected to by the Examiner. In the previous Amendment, Figures 1-2 were replaced and Figures 2A and 7 were added. The drawings are not approved due to the addition of "new matter."

In response to the Office Action dated June 22, 2005, none of the figures have been modified or cancelled. All of the modifications that were incorporated into the previously amended Figures included with the Amendment that was filed on April 11, 2005, are details that are known to one skilled in the art of push-push latches. Rather, they are known elements and features to one skilled in the art of push-push latches of how such a latch functions during normal operation. Further, it is the Applicant's position that the added matter merely makes explicit that which was implicit or inherent in the application as filed.

Specification

The Amendment filed on April 11, 2005 is objected to under 35 USC § 132(a) because it introduces new matter into the disclosure. The examiner stated that the added material is not supported by the original disclosure including amendments to the written description of the new figures.

Applicant respectfully disagrees with the Examiner. As stated in the Manual of Patent Examining Procedure ("MPEP"), "[b]y disclosing in a patent application a device that inherently performs a function or has a property, operates according to a theory or has an advantage, a patent application necessarily discloses that function theory or advantage, even though it says nothing explicit concerning it. The

U.S.S.N. 10/711,525

9

04877 (LC 0169 PUS)

application may later be amended to recite the function, theory or advantage without introducing prohibited new matter." MPEP § 2163.07(a).

It is the Applicant's position that the added matter merely makes explicit that which was implicit or inherent in the application as filed. In the Background Section of the original application, the Applicant disclosed "push-push latches are being used much more frequently in automotive compartments." Further, the Bivens '969 patent that the Examiner is now citing and which the Applicant disclosed in the IDS is evidence that the material added to the patent application in the first Amendment was known to one skilled in the art of push-push latches.

Claim Objections

Claim 19 is objected to because ~~to move~~ should be inserted before "through a channel".

Claim 19 is currently amended to incorporate this language. Therefore, claim 19 is now in condition for allowance.

Claim Rejections - 35 USC § 112

Claims 21 and 22 are rejected under 35 USC 112, first paragraph, as failing to comply with the written description requirement and second paragraph as being indefinite. The Examiner states, "[t]he claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention."

The Applicant included information in the first Amendment to explicitly disclose that which was implicitly or inherently in the application as filed. This does not amount to new matter. As stated at MPEP 2163.07(a), "By disclosing in a patent application a device that inherently performs a function or has a property, operates according to a theory or has an advantage, a patent application necessarily discloses that function, theory or advantage, even though it says nothing explicit concerning it. The application may later be amended to recite the function, theory or advantage without introducing new matter." *In re Reynolds*, 443 F.2d 384, 170 USPQ 94 (CCPA

U.S.S.N. 10/711,525

10

04877 (LC 0169 PUS)

1971); *In re Smythe*, 480 F.2d 1376, 178 USPQ 279 (CCPA 1973). "To establish inherency, the extrinsic evidence must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill." *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999)

The original application included a statement, which was deleted during the first amendment, that [0014 original] "[t]here is a connector 38, shown in Figure 1, that is permanently attached to the compartment door 24 and that engages the push-push latch 20. In other words, neither the track member 30 nor the guide member 32 is permanently attached to the compartment door 24. Rather, the connector 38 engages either the track member 30 or the guide member 32 depending on the configuration of the system." All of the description that was added via the First Amendment expands on this statement. Further, the whole description is knowledge possessed by a person of ordinary skill in the art of push-push latches. Evidence of this fact is proved by the Bivens patent '969 that applicant included in the IDS submitted with the current application and is now being cited by the Examiner.

The application was amended to include information regarding the function of push-push latches that is known to one skilled in the art of push-push latches.

U.S.S.N. 10/711,525

11

04877 (LC 0169 PUS)

Claim Rejections – 35 USC § 102

Claims 1-3, 6-24 are rejected under 35 USC § 102(b) as being anticipated by U.S. Pat. No. 5,657,969 to Bivens. Claims 1,2,10 15, and 19 are currently amended. Claims 16 and 24 are cancelled.

The Examiner states that "Bivens '969 teaches Applicant's claim limitations including: a 'track member' as shown in Figure 7, a 'guide member'--428, 'V-shaped notch'--at 478, 'retaining section'--beyond 471, 490 as described."

While the invention disclosed in Bivens '969 and the disclosure in the pending application relate to push-push latches that are attached to compartment doors that lock the doors into a closed position when subjected to an excessive force the two disclosures differ in several significant respects.

Claims 1 & 15

The present invention as disclosed in amended claims 1 and 15 includes a track member molded from a polymer that includes an integrated enclosed or bounded retaining section adjacent the V-shaped notch. Further the present invention includes a double wall channel that connects the V-shaped notch to the enclosed retaining section. On the other hand, referring to Figures 7 of Bivens '969, there is no enclosed retaining section that is integral with the track member. Further, Bivens '969 does not disclose a two-wall channel through which the guide member will travel when subjected to an excessive force.

With respect to the pending application, both walls of the channel flex or bow out away from the guide member when subjected to an excessive force. On the other hand, Bivens '969 discloses an opening defined by a point 463 and a cantilevered wall assembly through which the guide member will travel. Cantilever is a structure supported at one end. Area 441 is cored-out or removed. Therefore, when viewing Figure 7 of Bivens '969, this design requires that the cantilevered wall assembly will bend down into the page to allow passage of the guide member. These two disclosures are different.

Therefore applicant respectfully submits that claims 1 and 15 are novel, nonobvious and in condition for allowance.

U.S.S.N. 10/711,525

12

04877 (LC 0169 PUS)

Claims 2-3,6-14, 21-23 and 17-18

Claims 2-3, 6-14, and 21-23 are all dependent on amended claim 1. Claims 17-20 are all dependent on amended claim 15. Since claims 1 and 15 include structure, i.e., a bounded retaining section and a two wall channel, which is not disclosed in Bivens. Applicant respectfully submits that Claims 2-3, 6-14, 21-23, and 17-18 are also novel, non-obvious and in condition for allowance.

Claims 19 and 20

The examiner states, regarding "claim 19, the written description explicitly describes operation that reads on all claimed steps in any of several embodiments including that of Figure 7 for example."

Claim 19 discloses a method of locking a compartment door in a closed position when the door has been subjected to an excessive force. However, the described method is not disclosed in Bivens. Claim 19 discloses the guide member moving through the channel causing both of the channel walls to flex out to allow the guide member through to the integrated bounded retaining section. Further, once the guide member is positioned within the retaining section both of the channel walls flex back in. Bivens '99 does not in any way disclose a channel having two walls that flex out to allow the guide member through to a bounded retaining section.

Therefore applicant respectfully submits that claim 19 is novel, non-obvious and in condition for allowance. Further, since claim 20 depends from claim 19 Applicant submits that it is also in condition for allowance.

U.S.S.N. 10/711,525

13

04877 (LC 0169 PUS)

In light of the amendments and remarks, Applicant submits that all the objections and rejections are now overcome. The Applicant has added no new matter to the application by these amendments. The application is now in condition for allowance and expeditious notice thereof is earnestly solicited. Should the Examiner have any questions or comments, he is respectfully requested to contact the undersigned attorney.

Respectfully submitted,

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